

1 William P. Parkin, SBN 139718  
2 Yuchih Pearl Kan, SBN 294563  
3 Nicholas Whipps, SBN 306865  
4 WITTWER PARKIN LLP  
5 147 S. River Street, Suite 221  
6 Santa Cruz, CA 95060  
7 Telephone: (831) 429-4055  
8 Facsimile: (831) 429-4057  
9 wparkin@wittwerparkin.com  
10 pkan@wittwerparkin.com  
11 nwhipps@wittwerparkin.com

12 Attorneys for Petitioners  
13 JOSUE OTHONIEL TREJO and SOUTHWEST  
14 REGIONAL COUNCIL OF CARPENTERS

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 FOR THE COUNTY OF LOS ANGELES

17 JOSUE OTHONIEL TREJO and  
18 SOUTHWEST REGIONAL COUNCIL OF  
19 CARPENTERS,

20 Petitioners,

21 vs.

22 CITY OF LOS ANGELES, and DOES 1  
23 THROUGH 15,


24 Respondents,

25 ATLAS CAPITAL GROUP LLC,  
26 CHINATOWN STATION OWNER LLC, and  
27 DOES 16 THROUGH 30,

28 Real Parties in Interest.

**FILED**  
Superior Court of California  
County of Los Angeles

**DEC 17 2018**

Sherri R. Carter, Executive Officer/Clerk  
By  Deputy  
Sherrya Bolden

Case No. 18 ST CP 03229

VERIFIED PETITION FOR WRIT OF  
MANDAMUS

[CEQA CASE]

**By Fax**

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I. INTRODUCTION

1. On November 6, 2018, the City of Los Angeles, by and through its Advisory Agency and Hearing Officer ("Respondent") approved Vesting Tentative Tract Map Number VTT-74200 to construct a mixed-use development project comprising 725 residential units and 51,600 square feet of ground floor commercial uses for a total floor area of 618,580 square feet on a 4.92-acre site at 129-135 W. College Street and 924 N. Spring Street (Project).

Respondent also certified Environmental Impact Report ("EIR") Number ENV-2012-2055-EIR for the Project and adopted findings for the EIR and a Mitigation Monitoring Program.

2. Petitioners Josue Othoniel Trejo and the Southwest Regional Council of Carpenters (collectively referred to herein as "Petitioners") challenge the approval of the Project and certification of the EIR on the grounds that the Project does not comply with the California Environmental Quality Act (CEQA-Pub. Resources Code § 21000 et seq.) because, *inter alia*, the EIR fails to provide a stable and finite project description, the EIR's discussion of greenhouse gases, air quality impacts, hazardous materials, and cumulative impacts is inadequate, and the EIR fails to provide a proper description of the environmental setting. In addition, Petitioners challenge the approval of the Project for being inconsistent with the General Plan in effect at the time of Project approval, in violation of planning and zoning laws and the Subdivision Map Act. Respondent's certification of the EIR and approval of the Project constitutes an abuse of discretion and must be reversed.

3. On November 12, 2018, Southwest Carpenters appealed the decision of Respondent, by and through its Advisory Agency and Hearing Officer. However, the Respondent filed a Notice of Determination, and, pursuant to Public Resources Code Section 21167, this action was filed within 30 days thereof out of an abundance of caution.

II. PARTIES

4. Petitioners hereby incorporate by reference Paragraphs 1 through 3 as if fully set forth herein.

5. Josue Othoniel Trejo is a taxpayer and resident of the City of Los Angeles, where the Project is located.

1           6.       Southwest Regional Council of Carpenters is a labor union representing 50,000  
2 union carpenters in six states, including in southern California, and has a strong interest in well  
3 ordered land use planning and addressing the environmental impacts of development projects,  
4 such as the Project. Members of Petitioner Southwest Regional Council of Carpenters reside in  
5 the City and in the County of Los Angeles, and include residents affected by the Project, whose  
6 interests will be adversely affected by the violations of CEQA and approval of the Project in  
7 violation of planning and zoning laws and the Subdivision Map Act. Southwest Regional  
8 Council of Carpenters submitted comments on the Project that addressed the inadequacies of  
9 Respondent's environmental review and violations of planning and zoning laws and the  
10 Subdivision Map Act.

11           7.       Respondent City of Los Angeles, acting by and through its Advisory Agency  
12 and Hearing Officer, is a charter city. On November 6, 2018, Respondent issued a Letter of  
13 Determination memorializing its actions at its September 26, 2018 hearing on the Project. On  
14 November 15, 2018, a Notice of Determination was filed with the County Clerk of the County  
15 of Los Angeles for Respondent's certification of the EIR. While Petitioners properly requested  
16 notification, Respondent failed to notify Petitioners of the filing of the Notice of Determination,  
17 as required by law.

18           8.       The true names and capacities, whether individual, corporate, or otherwise, of  
19 Does 1 through 15, are unknown to Petitioners who therefore sue said Respondents by such  
20 fictitious names and will seek leave to amend this Petition for Writ of Mandamus when their  
21 identities have been ascertained.

22           9.       Petitioners are informed and believe that at all times herein alleged,  
23 Respondents and each of them were the agents and employees of each of the remaining  
24 Respondents and while doing the things herein alleged, were acting within the course and  
25 scope of such agency and employment.

26           10.      Real Party in Interest Atlas Capital Group LLC is listed on the Notice of  
27 Determination as the Project applicant and Real Party in Interest. On information and belief,  
28 and on this basis, Petitioners allege, Atlas Capital Group LLC applied for and received

1 approvals from Respondent for the Project.

2 11. Real Party in Interest Chinatown Station Owner LLC is identified as the Project  
3 applicant in the EIR for the Project. While not required to name Chinatown Station Owner  
4 LLC as a Real Party in Interest (see Pub. Resources Code § 21167.6.5), on information and  
5 belief, and on this basis, Petitioners allege, Chinatown Station Owner LLC applied for and  
6 received approvals for the Project from Respondent.

7 12. The true names and capacities, whether individual, corporate, or otherwise, of  
8 Docs 16 through 30, are unknown to Petitioners who therefore sue said Real Parties in Interest  
9 by such fictitious names and will seek leave to amend this Petition for Writ of Mandamus  
10 when their identities have been ascertained.

11 13. Petitioners are informed and believe that at all times herein alleged, Real Parties  
12 in Interest and each of them were the agents and employees of each of the remaining Real  
13 Parties in Interest and while doing the things herein alleged, were acting within the course and  
14 scope of such agency and employment.

### 15 III. STANDING

16 14. Petitioners hereby incorporate by reference paragraphs I through 13 as if fully  
17 set forth herein.

18 15. Approval of the Project will adversely affect the interests of Petitioner Josue  
19 Othoniel Trejo. Petitioner Josue Othoniel Trejo is an individual dedicated to the protection of  
20 the environment and orderly land use planning in the City and in the County of Los Angeles by  
21 participating in local environmental and land use policy decision making. Petitioner Josue  
22 Othoniel Trejo is a resident in the City of Los Angeles and is affected by the Project, and  
23 whose interests in preservation of the environmental integrity of, and land use planning within,  
24 the County will be adversely affected by the lack of proper environmental review under CEQA  
25 and approval of the Project. Petitioner is also a member of Petitioner Southwest Regional  
26 Council of Carpenters. Petitioner is an "aggrieved person" within the meaning of Public  
27 Resources Code § 21177.

28 16. Approval of the Project will adversely affect the interests of Petitioner

1 Southwest Regional Council of Carpenters and its members. Said organization is a labor union  
2 that is dedicated to also preserving the quality of the environment and ensuring orderly land  
3 use planning for its members, including those residing in the County of Los Angeles.  
4 Approval of the Project and certification of the EIR will adversely affect these interests of  
5 Petitioner Southwest Regional council of Carpenters and its members. Members and  
6 representatives of Petitioner Southwest Regional Council of Carpenters, on behalf thereof,  
7 have submitted comments on and objections to the lack of compliance with CEQA and land  
8 use laws during the administrative proceedings where the Project was considered. Accordingly,  
9 Petitioner Southwest Regional Council of Carpenters is an "aggrieved person" within the  
10 meaning of Public Resources Code § 21177. The claims asserted and relief requested are  
11 broad-based, so that participation in the litigation by individual members is not required.

12 17. Jurisdiction of this Court is invoked pursuant to California Code of Civil  
13 Procedure §§ 1085 and 1094.5; California Public Resources Code § 21167; CEQA Guidelines  
14 § 15112; the Constitution of the State of California; the Constitution of the United States; and  
15 other applicable laws and regulations.

#### 16 IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

17 18. Petitioners hereby incorporate by reference paragraphs 1 through 17 as if fully  
18 set forth herein.

19 19. Petitioners have performed all conditions precedent to the filing of this Petition  
20 by themselves or others, raising each and every issue known to them before Respondent, in  
21 compliance with Public Resources Code § 21177, Code of Civil Procedure §§ 1085 and 1094.5,  
22 and other applicable laws.

23 20. Notice of the filing of this action as required by Public Resources Code §  
24 21167.5 was mailed to Respondent on December 13, 2018. (Letter and Proof of Service are  
25 attached hereto as Exhibit "A.")

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V. FIRST CAUSE OF ACTION  
Violation of the California Environmental Quality Act  
[Public Resources Code § 21000 et seq.]

21. Petitioners hereby incorporate by reference paragraphs 1 through 20 as if fully set forth herein.

22. Respondent's approval of the EIR constitutes an abuse of discretion because, *inter alia*, the EIR fails to provide a stable and finite project description, the EIR's discussion of greenhouse gases, air quality impacts, hazardous materials, and cumulative impacts is inadequate, and the EIR fails to provide a proper description of the environmental setting.

23. The EIR must contain an accurate and stable project description in order to be considered adequate as an informational document. (14 Cal. Code Regs. § 15124.) Failure to provide a stable and finite project description defeats the informational purposes of CEQA and invalidates the EIR. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-193.) Here, the EIR for the Project does not contain a stable and finite project description, in violation of CEQA.

24. An EIR must "include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published." (14 Cal. Code Regs. § 15125(a).) Respondent did not adequately evaluate, disclose, or describe baseline environmental conditions in regard to a variety of resource categories, including hazards and hazardous materials.

25. Respondent improperly relied on thresholds of significance they have not themselves adopted. California law requires Respondent to determine the Project's contribution to greenhouse gas emissions. CEQA Guidelines allow an agency to determine the significance of Project-level greenhouse gas impacts, for instance, by setting quantitative emissions thresholds and by determining consistency with a Climate Action Plan, consisting of regulations "adopted by the relevant public agency through a public review process." (14 Cal. Code Regs. § 15064.4(b).) To be relied on as mitigation, this plan must actively "reduce or mitigate the project's incremental contribution of greenhouse gas emissions." (14 Cal. Code

1 Regs. § 15064.4(b).)

2 26. Respondent evaluates the consistency of the Project with, *inter alia*, the  
3 California Air Resources Board's AB 32 Scoping Plan ("Scoping Plan") to conclude Project-  
4 level impacts under this significance threshold are less than significant prior to mitigation. The  
5 Scoping Plan is a statewide plan designed to reduce certain categories of greenhouse gases  
6 consistent with the mandate of the State greenhouse gas laws. However, *Center for Biological*  
7 *Diversity v. California Department of Fish and Wildlife* (2015) 620 Cal.4th 204, noted that the  
8 Scoping Plan was not designed or intended to be used at the Project-level. That case held that,  
9 to rely on the Scoping Plan, an agency, such as Respondent, must provide analysis that  
10 adequately explains why application of the Scoping Plan at the Project-level would be suitable  
11 under the circumstances. Respondent provided no such analysis and, thus, Respondent's use of  
12 the Scoping Plan is erroneous. (14 Cal. Code Regs. § 15064.4(b).) In addition, Respondent's  
13 use of the Scoping Plan did not serve to "reduce or mitigate the project's incremental  
14 contribution of greenhouse gas emissions," as required by law. (14 Cal. Code Regs. §  
15 15064.4(b).)

16 27. Further, Respondent's evaluation of consistency with plans not adopted by  
17 Respondent for the purpose of reducing greenhouse gas impacts at the Project level was  
18 confusing and failed to serve the informational purposes of CEQA. Respondent's failure to  
19 consider a quantified greenhouse gas emissions threshold cannot be seen as a good faith effort  
20 at disclosing the significance of Project-related greenhouse gas impacts. (14 Cal. Code Regs. §  
21 15064.4(a).)

22 28. Respondent failed to provide an adequate discussion of Project-related impacts  
23 and mitigation measures, including cumulative impacts. CEQA requires Respondent to  
24 consider the direct, indirect, and cumulative environmental impacts of the Project, and to adopt  
25 all feasible mitigation needed to reduce Project-related impacts. (14 Cal. Code Regs. §§  
26 15126.2; 15130.) The analysis in the EIR failed to accurately disclose the significant  
27 environmental effect of the Project, including its direct, indirect, and cumulative effects.  
28 Furthermore, Respondent failed to accurately describe and implement all feasible mitigation

measures.

29. Respondent must prepare an adequate EIR that conforms with all of the procedural and substantive requirements set forth under CEQA. Approval of the Project EIR, which lacked both procedural and substantive requirements under CEQA, constitutes an abuse of discretion and a failure to proceed in a manner required by law.

**VI. SECOND CAUSE OF ACTION**  
**Violation of Planning and Zoning Laws and the Subdivision Map Act**

30. Petitioners hereby incorporate by reference paragraphs 1 through 29 as if fully set forth herein.

31. The State planning and zoning laws require that land use decisions made by Respondent must be consistent with Respondent's General Plan. The Project violates these requirements. The Project is inconsistent with the City of Los Angeles Central City North Community Plan, which is part of the General Plan. The General Plan Land Use Map currently in effect for the Project site mandates the following:

For residential and mixed-use projects, the first 1.5:1 FAR of residential use shall be permitted to be market rate units. Residential uses with FARs 1.5:1 to 3:1 shall set aside 20% of their units for affordable housing. Residential projects with FARs in excess of 3:1 shall set aside 100% of the units above the 3:1 threshold as affordable units.

32. Because the Project would have a floor-area ratio (FAR) of between 2.7:1 and 3:1, it is required to set aside twenty percent of all Project units as affordable housing units. The Project would construct and set aside no affordable housing units, in violation of the clear language of the General Plan. While the Draft EIR originally described a Development Agreement and General Plan Amendment that would have conformed the Project to be consistent with the General Plan, Respondent ultimately removed the General Plan Amendment and Development Agreement from the Project. The resulting Project approval is inconsistent with the General Plan.

33. In addition, Respondent erroneously approved the Vesting Tentative Tract Map for the Project. The Subdivision Map Act requires Respondent to disapprove a Vesting Tentative Tract Map if this map is inconsistent with the General Plan. (Gov. Code §§



66473(a); 66474.60; 66474.61(a).) Respondent's Subdivision Map Act findings that the Project is consistent with the General Plan and other planning and zoning laws are unsupported by substantial evidence. (Gov. Code § 66474.61(a).) Approval of a Vesting Tentative Tract Map that is inconsistent with the General Plan constitutes an abuse of discretion and a failure to proceed in a manner required by law and is a violation of planning and zoning laws and the Subdivision Map Act.

#### VII. ATTORNEYS' FEES

34. Petitioners hereby incorporate by reference paragraphs 1 through 33 as if fully set forth herein.

35. In pursuing this action, Petitioners will confer a substantial benefit on the People of the State of California and therefore are entitled to recover from Respondent and Real Parties reasonable attorneys' fees and costs pursuant to California Code of Civil Procedure § 1021.5 and other provisions of the law.

#### VIII. INJUNCTION

36. Petitioners hereby incorporate by reference paragraphs 1 through 35 as if fully set forth herein.

37. An actual controversy has arisen concerning Respondent's failure to comply with CEQA (Pub. Resources Code § 21000 et seq.) and planning and zoning laws and the Subdivision Map Act, as set forth above.

38. As a result of the above-alleged violations of CEQA and planning and zoning laws, Respondent has failed to adhere to the mandates of planning and zoning laws and the Subdivision Map Act and conduct adequate environmental review as required by law and, thus, has failed to proceed in a manner required by law in approving the Project.

39. At all times mentioned herein, Respondent has been able to comply with CEQA, prepare adequate environmental review, and comply with all relevant provisions of law. Notwithstanding such an ability, Respondent has failed and continues to fail to perform its duty to comply with CEQA, planning and zoning laws and the Subdivision Map Act, and all other relevant provisions of law.

40. Petitioners are informed and believe, and on that basis allege, that Respondent is threatening to proceed with development of the Project in the near future. Said implementation of the Project will irreparably harm the environment and will result in significant and unmitigated adverse environmental impacts.

41. Petitioners possess no speedy, adequate remedy at law, in that implementation and development in connection with the Project will permanently and forever harm, injure, degrade, and impact the environmental values of the City, the County of Los Angeles, and the State of California. Petitioners will suffer irreparable and permanent injuries if Respondent's actions described herein are not set aside.

42. A stay and/or restraining order and preliminary and permanent injunction should issue restraining Respondent from proceeding with development of the Project.

43. In order to preserve the status quo, a stay and/or restraining order and preliminary and permanent injunction should issue staying Respondent's approval of the Project and certification of the EIR.

## PRAYER

WHEREFORE, Petitioners pray for judgment as follows:

1. For Alternative and Peremptory Writs of Mandate ordering Respondent to set aside any and all Project approvals including, but not limited to the approval of Vesting Tentative Tract Map Number VTT-74200 for the merger and re-subdivision of a 4.92-acre site into one master lot in conjunction with the construction of the Project and certification of EIR Number ENV-2012-2055-EIR, unless and until Respondent takes all necessary steps to bring its actions into compliance with CEQA.

2. For an order staying Respondent or other Project applicants from engaging in any activity pursuant to the Project until the environmental review and the Project complies with California statutes and regulations, including but not limited to the requirements of CEQA, and until Respondent abides by the procedural requirements set forth in all relevant State and local planning and zoning laws.

3. For reasonable attorneys' fees, pursuant to California Code of Civil Procedure §

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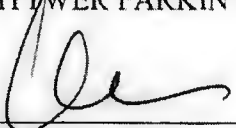
1021.5, and other provisions of the law;

4. For costs of suit; and

5. For such other and further relief as the Court may deem proper.

Dated: December 14, 2018

Respectfully submitted,  
WITTWER PARKIN LLP

By:   
William P. Parkin  
Attorneys for Petitioners Josue Othoniel  
Trejo and Southwest Regional Council of  
Carpenters

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VERIFICATION

I, William P. Parkin, say:

I am the Attorney of Record for Petitioners Josue Othoniel Trejo and Southwest Regional Council of Carpenters, parties to this action.

I have read the Petition for Writ of Mandamus and know the contents thereof. I am informed and believe that the matters therein are true and on that ground allege that the matters stated therein are true. This verification was not signed by a party to this action because Petitioners are absent from the county where I have my office at the time this Petition for Writ of Mandamus was drafted and ready for filing. This verification was executed on December 14, 2018 in Santa Cruz, California.



William P. Parkin

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# EXHIBIT A

## Notice of Intent to Commence Litigation

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Exhibit A



December 14, 2018

City of Los Angeles  
200 North Spring Street  
Los Angeles, CA 90012

**Re: Notice of Intent to Commence Litigation**

Pursuant to the requirements of Public Resources Code Section 21167.5, this letter will serve as notice that Josue Othoniel Trejo and Southwest Regional Council of Carpenters will commence litigation against the City of Los Angeles ("City").

This litigation challenges the actions of the City to approve Vesting Tentative Tract Map Number VTT-74200 for the merger and re-subdivision of a 4.92 acre site into one master lot in conjunction with the construction of the College Station Project ("Project") and certification of the EIR for the Project to allow development of a mixed-use development comprising 725 dwelling units and 51,600 square feet of commercial uses.

This litigation has been commenced, *inter alia*, because the actions listed in the preceding paragraph to not comply with the requirements of the California Environmental Quality Act (Public Resources Code § 21000 et seq.) and applicable State and local planning and zoning laws.

Very truly yours,  
WITTWER PARKIN LLP

  
William P. Parkin

cc: Johnny Le, Planning Assistant  
City Attorney

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I am over the age of 18 and not a party to this action. My business address is WITTWER PARKIN LLP, 147 S. River Street, Suite 221, Santa Cruz, California which is located in Santa Cruz County where the mailing described below took place.

On December 14, 2018 the following document(s):

were placed for deposit in the United States Postal Service in a sealed envelope, with postage fully paid to:

I certify and declare under penalty of perjury that the forgoing is true and correct.

Ashley McCarroll